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HEARING DOCKET

U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

IN RE MATTER OF

PETER L. BRADLEY,

Respondent.

FAA Docket No. CP04WP0030
DMS FAA 2005-20532 - 9

RESPONDENT'S
REQUEST FOR CONTINUANCE
OF HEARING DATE

US Admin. Law Judge
RICHARD C. GOODWIN

COMES NOW RESPONDENT to respectfully request a continuance of the
Hearing Date currently set for July 5 - 6, 2005.

Respondent requests additional time to negotiate a stipulated fact statement that
would greatly reduce time required for a hearing. Three days will be needed for the
hearing unless a stipulated statement can be reached.

Respondent requests additional time be allowed to file motions and brief legal
issues prior to the hearing.

This counsel has consulted FAA Attorney Theodore Byrne who states he has no
objection to this request for a continuance.

Respondent provides the attached Declaration of Joyce B. Ladar in support of this
motion.

Respectfully Submitted,

JBL

JOYCE B. LADAR

* * * * *

DECLARATION OF JOYCE B. LADAR

I, JOYCE B. LADAR, declare:

I am the attorney of record for Respondent Peter L. Bradley in this FAA case. I was co-counsel with Jerrold M. Ladar, in the federal case: USA v. Peter Bradley CR 00-196 WHA filed on March 17, 2000 and dismissed on September 26, 2002.

Jerrold Ladar, my husband of 48 years and my law partner for 25, is now an invalid requiring constant care at home. He suffers from an advanced case of Parkinson's Disease which has caused him to lose all recollection of his legal past and cases. As it became apparent that Jerry could no longer continue practicing, we retired and I closed our office. I thought I had completed all our cases and stored the files, not realizing that the Bradley Administrative Law Case had not been resolved.

While Jerry was the primary counsel for Peter Bradley, I feel obligated to finish this administrative case because it was known to Jerry during the criminal case and should have been resolved when that case was completed. Unfortunately, when I closed our office, I did not carefully collect all of the Bradley material together and store in one carton. It has taken me longer than it should have to find all of the materials.

The Bradley incident gives rise to a very unique case for a number of reasons. First, it involved an extremely rare medical defense – “legal unconsciousness”. Second, Respondent was observed by passengers, crew, emergency room staff or Marshals from the hour before he boarded the plane through two days after and witness statements were taken immediately upon the plane landing or simultaneously in medical notes. It is therefore a particularly well documented case. Third, Respondent contests almost none of the facts, the one exception being whether his pocket knife was concealed and whether it constitutes a deadly weapon. Fourth, a federal criminal case was filed and ultimately dismissed because in the unanimous opinion of four medical experts Respondent was suffering from viral encephalitis and was delusional while on the Alaska Airlines flight. He was therefore unable to form the criminal intent to violate the law as charged in the criminal case.

Aside from the factual question whether the pocket knife was a concealed deadly weapon, this defense to the administrative case is raising only legal questions:

- 1) Can the FAA be stopped from disputing that Respondent was legally unconscious on March 16, 2000, i.e. is estoppel of an issue fully litigated in the federal criminal case a defense to this action?
- 2) Can a person who is legally unconscious and therefore has no intent, violate federal regulations, i.e. is legal unconsciousness a complete defense to violation of civil regulations?
- 3) Can a person be charged by two federal agencies in separate cases based on the same acts and incident, i.e. is res judicata of a claim fully

resolved in a federal criminal case a complete defense to violation of civil regulations?

Counsel and I are pursuing whether we can eliminate the need for witnesses at the hearing. I drafted a fact statement based upon witness statements and documents submitted in the federal criminal case and faxed it to counsel Monday afternoon, May 9, 2005. FAA Attorney Theodore Byrne and I hope to enter into discussions to determine if we can reach agreement on such a statement, providing that would be an acceptable process to the FAA. Eliminating the need for any witnesses to be called in this administrative case, with the exception of Respondent to testify about the knife, would reduce the hearing time from a potential three days to part of one day. However, it took longer than expected for my draft, and providing this process is acceptable to the FAA, it will take some time to revise and agree to a final stipulated statement.

In addition, I will bring motions for Judicial Notice of the Criminal case file and contents as well as the medical reports provided in that case.

Mr. Byrne has no objection to my request for a continuance providing his unavailable days are considered.

I am required to be available for Jury Duty in San Francisco by the San Francisco County Court from July 25 – July 29, 2005. I am not allowed to change the dates because I continued the original date to accommodate a doctor's appointment. I also request no setting in the following week (August 1-5, 2005) in case I am actually seated on a jury. I have no other conflicts.

I declare under penalty of perjury the foregoing statement is true and correct and
executed this tenth day of May, 2005, in the City and County of San Francisco,
California.

/s/ JBL

JOYCE B. LADAR

**IN RE MATTER OF PETER L. BRADLEY
FAA Docket No. CP04WP0030
DMS FAA Case No. 2000WP750229**

PROOF OF SERVICE

The undersigned hereby certifies that his/her business address is 1916 Vallejo Street, San Francisco, California, 94123 and she is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that on this date she caused copies of

RESPONDENT'S REQUEST FOR CONTINUANCE OF HEARING DATE

To be deposited in the U.S. Mail to the following:

[Original plus one copy]

HEARING DOCKET CLERK
FEDERAL AVIATION ADMINISTRATION
800 Independence Avenue, SW, Room 924A
Washington, DC 20591

Attn: Hearing Docket Clerk, AGC-430
Wilbur Wright Building – Room 214

[by U.S. Mail and Fax – one copy]

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[by U.S. Mail and Fax – one copy]

THE HONORABLE RICHARD C. GOODWIN
Administrative Law Judge
Office of Hearings, M-20, Room 5411
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Fax: (202) 366-7536

I declare under penalty of perjury that the foregoing is true and correct, executed this 10th day of May, 2005, in San Francisco, County of San Francisco, California.

15/ JBL
Joyce B. Ladar